

TTAB

M&G 2316.1803USTA

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ADC Telecommunications, Inc.,)
)
 Opposer,)
)
 vs.)
)
 Avaya, Inc.)
)
)
 Applicant.)
 _____)


09-29-2003
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #66

Mark: SINGLE VIEW

Application Serial No. 78/142,638

Published: July 29, 2003

NOTICE OF OPPOSITION

ADC Telecommunications, Inc., a Minnesota corporation, having a business address at 13625 Technology Drive, Eden Prairie, Minnesota 55344-2252 (hereinafter "Opposer"), believes that it will be damaged by registration of the mark shown in Application Serial No. 78/142,638, owned by Avaya, Inc. (hereinafter "Applicant"), and hereby opposes the same under § 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

As grounds for opposition, Opposer alleges that:

1. Opposer is a communications company that provides network equipment, software solutions, and integration services for broadband, multiservice networks that deliver data, video, and voice communications over telephone, cable television, internet, broadcast, wireless and enterprise networks.

2. Opposer is the owner of Registration No. 2,753,550 for the mark SINGL.EVIEW for "computer software used for customer billing applications, and to assist integrated communications providers in managing networks, communications services and customer data," in Class 9 (copy attached). Opposer filed its Application

No. 76/055,478 on May 24, 2000.

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3. Opposer's Registration No. 2,753,550 is valid and subsisting and constitutes prima facie evidence of Opposer's exclusive right to use its SINGL.EVIEW mark in connection with the goods specified in that registration.

4. Opposer is the owner of Application Serial No. 76/315,349 for the mark SINGL.EVIEW COMMERCE INDEX to identify "computer software, namely, an XML e-catalog targeted to the telecommunications market which includes tools for managing product creation and maintenance," in Class 9.

5. Opposer is the owner of Application Serial No. 76/315,348 for the mark SINGL.EVIEW COMMERCE ENGINE to identify "computer hardware and software, namely, convergent payment and account management platform used for customer billing applications, and to assist integrated communications providers in managing networks, communication services, and customer data," in Class 9.

6. Opposer is the owner of Application Serial No. 76/315,343 for the mark SINGL.EVIEW CUSTOMER PERSONAE to identify "a feature of computer software used for customer billing applications and for managing networks, communications services, and customer data, that allows customers to designate various service and payment preferences," in Class 9.

7. Applicant seeks to register the words SINGLE VIEW as a service mark for the installation and maintenance of computer hardware; maintenance and repair of telecommunications infrastructure apparatus and instruments; maintenance and repair of data infrastructure apparatus and instruments, namely, PBX and voice messaging systems, in Class 37; and installation and maintenance of computer software in Class 42.

8. The opposed Application Serial No. 78/142,638 was filed on July 10, 2002, based on an alleged bona fide intention to use the mark in commerce.

9. Upon information and belief, Applicant has made no use of its claimed mark SINGLE VIEW in the United States prior to the Opposer's constructive first use date of May 24, 2000.

10. Opposer's constructive first use date and actual first use date for the SINGL.EVIEW mark predate any rights upon which the Applicant can rely.

11. Since at least as early as June, 2000, Opposer has used the SINGL.EVIEW mark and variations thereof in connection with telecommunications software and related hardware. Through extensive promotion and use of the mark, Opposer has built a strong reputation for high quality products sold under its SINGL.EVIEW mark, and the mark has come to symbolize Opposer and its products.

12. The services to be offered by Applicant including installation and maintenance of computer hardware and telecommunications equipment as well as installation and maintenance of computer software are closely related to the goods offered by Opposer.

13. Upon information and belief, Applicant's services would be offered to the same class of consumers who purchase the goods in connection with which Opposer has used and now uses its mark SINGL.EVIEW.

14. The Applicant's proposed mark SINGLE VIEW is nearly identical to Opposer's mark such that if Applicant's mark is used in connection with the services identified in Application Serial No. 78/142,638, it would be likely to cause confusion, mistake, or deception in the relevant trade and public, all to Opposer's damage.

15. Potential customers for Applicant's services are likely to believe that such services originate with or are sponsored or approved by Opposer, when in fact they are not, resulting in damage to Opposer.

16. If Applicant is granted the registration herein opposed, it would thereby obtain a prima facie exclusive right to use its mark, which would be a further source of damage to Opposer.

WHEREFORE, Opposer believes that it would be damaged by said application, and requests that this opposition be sustained, that Application Serial No. 78/142,638 be rejected, and that the mark applied for therein be refused registration.

Opposer submits herewith the requisite filing fee of \$600.00. Please charge any additional fee that may be due or credit any overpayment to Deposit Account No. 13-2725.

Please address all correspondence to Anna W. Manville, Merchant & Gould P.C., P.O. Box 2910, Minneapolis, Minnesota 55402-0910.

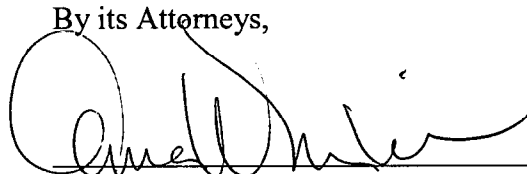
Respectfully submitted,

ADC TELECOMMUNICATIONS, INC.

By its Attorneys,

Date:

9/26/03



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MERCHANT & GOULD P.C.
P.O. Box 2910
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CERTIFICATE UNDER 37 CFR 2.197: The undersigned hereby certifies that this document is being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514, on September 26, 2003.

By:

Stacey Schmitz

The United States of America



CERTIFICATE OF REGISTRATION PRINCIPAL REGISTER

The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

This registration shall remain in force for TEN (10) years, unless terminated earlier as provided by law, and subject to compliance with the provisions of Section 8 of the Trademark Act of 1946, as Amended.



Director of the United States Patent and Trademark Office

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

United States Patent and Trademark Office

Reg. No. 2,753,550

Registered Aug. 19, 2003

**TRADEMARK
PRINCIPAL REGISTER**

SINGL.EVIEW

ADC TELECOMMUNICATIONS, INC. (MINNE-
SOTA CORPORATION)
12501 WHITEWATER DRIVE
MINNETONKA, MN 55343

FOR: COMPUTER SOFTWARE USED FOR CUS-
TOMER BILLING APPLICATIONS, AND TO ASSIST
INTEGRATED COMMUNICATIONS PROVIDERS
IN MANAGING NETWORKS, COMMUNICATIONS

SERVICES, AND CUSTOMER DATA, IN CLASS 9
(U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 6-0-2000; IN COMMERCE 6-0-2000.

SN 76-055,478, FILED 5-24-2000.

MIDGE BUTLER, EXAMINING ATTORNEY

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A Professional Corporation

ADC Telecommunications, Inc.
Opposer

v.
Avaya, Inc.
Applicant

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) Application Serial No. 78/142,638
) Published: July 29, 2003
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U.S. Patent & TMOtc/TM Mail Rcpt Dt. #66

Mark: SINGLE VIEW
Serial No.: 78/142,638
Docket Number: 2316.1803USTA
Official Gazette: July 29, 2003

Due Date: September 27, 2003
Filing Date: July 10, 2002

CERTIFICATE UNDER 37 CFR 2.197: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514, on September 26, 2003.

By: 
Name: Stacey Schmitz

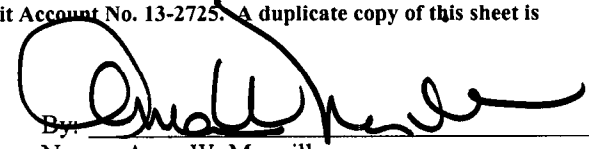
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

Dear Commissioner:

We are transmitting herewith the attached:

- ☒ Return postcard.
- ☒ Transmittal Sheet in duplicate containing Certificate Under 37 C.F.R. 1.8
- ☒ Notice of Opposition (1 Original and 1 Copy)
- ☒ Check in the amount of \$600.00 to cover Filing Fee.

Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate copy of this sheet is enclosed.

By: 
Name: Anna W. Manville
AWM:sls

(CONTESTED MATTER)